

Executive Summary – Enforcement Matter – Case No. 43942

New Braunfels Utilities

RN101700946

Docket No. 2012-0771-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Gruene Road Plant, approximately 700 feet southwest of the crossing of Gruene Loop Road over the Guadalupe River, Comal County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 10, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,750

Amount Deferred for Expedited Settlement: \$1,550

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,200

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 43942
New Braunfels Utilities
RN101700946
Docket No. 2012-0771-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 23, 2012

Date(s) of NOE(s): April 3, 2012

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen and chlorine [Texas Pollutant Discharge Elimination System Permit No. WQ0010232002, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Facility on December 1, 2011:

- i. Made adjustments to the chlorine and sulfur dioxide feed rates;
- ii. Increased the solids removal to waste rate from the aeration process; and
- iii. Returned to compliance with permitted effluent limits.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Executive Summary – Enforcement Matter – Case No. 43942
New Braunfels Utilities
RN101700946
Docket No. 2012-0771-MWD-E

Respondent: Paula J. DiFonzo, Chief Executive Officer, New Braunfels Utilities, P.O.
Box 310289, New Braunfels, Texas 78131

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned

9-Apr-2012

PCW

12-Apr-2012

Screening

10-Apr-2012

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent New Braunfels Utilities

Reg. Ent. Ref. No. RN101700946

Facility/Site Region 13-San Antonio

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 43942

Docket No. 2012-0771-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Government/Non-Profit Yes

Enf. Coordinator Jorge Ibarra, P.E.

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$3,750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

49.0% Enhancement

Subtotals 2, 3, & 7 \$1,837

Notes

Enhancement for two NOV's with dissimilar violations and nine months of self-reported effluent violations.

Culpability

No

0.0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$937

Economic Benefit

0.0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$0
Approx. Cost of Compliance \$0

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$4,650

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$4,650

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$4,650

DEFERRAL

20.0%

Reduction

Adjustment -\$930

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$3,720

Screening Date 10-Apr-2012

Docket No. 2012-0771-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 3 (September 2011)

Case ID No. 43942

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101700946

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	9	45%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 49%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with dissimilar violations and nine months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 49%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 49%

Screening Date 10-Apr-2012

Docket No. 2012-0771-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 3 (September 2011)

Case ID No. 43942

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101700946

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010232002, Effluent Limitations and Monitoring Requirements No. 2, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the months of October and November 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$937

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent achieved compliance by December 1, 2011 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,651

This violation Final Assessed Penalty (adjusted for limits) \$4,651

Economic Benefit Worksheet

Respondent New Braunfels Utilities
Case ID No. 43942
Reg. Ent. Reference No. RN101700946
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1 on the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Apr-2012	Screening	10-Apr-2012	EPA Due	
	PCW	12-Apr-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	New Braunfels Utilities		
Reg. Ent. Ref. No.	RN101700946		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43942	No. of Violations	1
Docket No.	2012-0771-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	49.0% Enhancement	Subtotals 2, 3, & 7	\$1,225
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Notes: Enhancement for two NOV's with dissimilar violations and nine months of self-reported effluent violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$21
Approx. Cost of Compliance \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$3,100
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$3,100
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DEFERRAL

20.0%

Reduction

Adjustment

-\$620

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,480

Screening Date 10-Apr-2012

Docket No. 2012-0771-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 2 (September 2002)

Case ID No. 43942

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101700946

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	9	45%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 49%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with dissimilar violations and nine months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 49%

Screening Date 10-Apr-2012

Docket No. 2012-0771-MWD-E

PCW

Respondent New Braunfels Utilities

Policy Revision 2 (September 2002)

Case ID No. 43942

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101700946

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010232002, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for the quarter containing the month of January 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 1, 2011 for this violation.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$3,100

This violation Final Assessed Penalty (adjusted for limits) \$3,100

Economic Benefit Worksheet

Respondent New Braunfels Utilities
Case ID No. 43942
Reg. Ent. Reference No. RN101700946
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	31-Jan-2011	1-Dec-2011	0.83	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to make adjustments to the chlorine and sulfur dioxide feed rates, increase the solids removal of waste rate from the aeration process and return to compliance with permitted effluent limits. Date required is the first date of non-compliance; and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

31

\$21

New Braunfels Utilities
 RN101700946, Case No. 43942, TPDES Permit No. WQ0010232002
 Docket No. 2012-0771-MWD-E

<i>EFFLUENT PARAMETER</i>		
Permit Limit		
	NH ₃ N Daily Maximum Concentration	Cl ₂ Instant Maximum Concentration
<i>Month/Year</i>	10 mg/L	0.1 mg/L
January 2011	12.25	c
October 2011	c	0.8
November 2011	c	0.3

mg/L = milligrams per liter c = compliant NH₃N = ammonia nitrogen Cl₂ = chlorine

Compliance History Report

Customer/Respondent/Owner-Operator: CN600522957 New Braunfels Utilities Classification: AVERAGE Rating: 2.57

Regulated Entity: RN101700946 GRUENE ROAD PLANT Classification: AVERAGE Site Rating: 0.60

ID Number(s): WASTEWATER PERMIT WQ0010232002
WASTEWATER EPA ID TPDE10232002
WASTEWATER EPA ID TX0070939

Location: Approximately 700 feet southwest of the crossing of Gruene Loop Road over the Guadalupe River in Comal County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: April 10, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 10, 2007 to April 10, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/23/2007	(584031)
2	05/17/2007	(584032)
3	06/19/2007	(584033)
4	08/29/2007	(604133)
5	09/18/2007	(604134)
6	10/18/2007	(604135)
7	02/06/2008	(613036)
8	02/29/2008	(617942)
9	11/16/2007	(623062)
10	12/14/2007	(623063)
11	01/21/2008	(623064)
12	04/04/2008	(639941)
13	02/18/2008	(674467)
14	03/17/2008	(674468)
15	04/18/2008	(674469)
16	05/15/2008	(692811)

17	06/20/2008	(692812)
18	05/22/2008	(692813)
19	08/29/2008	(700287)
20	08/26/2008	(713971)
21	09/19/2008	(713972)
22	10/17/2008	(713973)
23	02/12/2009	(721629)
24	11/19/2008	(729957)
25	01/16/2009	(729958)
26	05/13/2009	(737367)
27	02/13/2009	(753185)
28	03/18/2009	(753186)
29	04/17/2009	(753187)
30	12/18/2008	(753188)
31	05/19/2009	(770721)
32	06/15/2009	(770722)
33	05/19/2009	(770723)
34	03/12/2010	(793580)
35	02/15/2010	(811962)
36	08/27/2009	(811963)
37	09/16/2009	(811964)
38	10/19/2009	(811965)
39	11/18/2009	(811966)
40	12/16/2009	(811967)
41	11/19/2009	(811968)
42	03/19/2010	(833387)
43	04/19/2010	(833388)
44	05/17/2010	(833389)
45	06/18/2010	(847054)
46	07/20/2010	(861536)
47	08/18/2010	(867834)
48	12/23/2010	(872017)
49	09/17/2010	(874788)
50	10/19/2010	(882376)
51	02/18/2011	(910017)
52	03/15/2011	(917210)
53	04/19/2011	(927667)
54	11/17/2010	(927668)
55	12/17/2010	(927669)
56	07/09/2010	(927670)
57	05/18/2011	(938904)
58	08/30/2011	(942755)
59	06/17/2011	(946281)
60	07/20/2011	(953551)
61	08/30/2011	(960177)
62	09/20/2011	(966232)
63	10/13/2011	(972251)

64	11/17/2011	(978409)
65	12/19/2011	(985220)
66	01/19/2012	(991496)
67	04/04/2012	(995400)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	01/31/2008	(674467)	CN600522957
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/06/2008	(613036)	CN600522957
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii)		
Description:	Failure to document the method of preservation used when collecting wastewater samples for determining compliance with applicable pretreatment standards.		
Date:	08/13/2008	(700287)	CN600522957
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 122, SubChapter D, PT 122, SubPT C 122.41 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(i) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(ii)		
Description:	Failure to monitor the influent and effluent of the North Kuehler, South Kuehler, and Gruene Road wastewater treatment plants according to TPDES permit requirements and failure to keep industrial user information current.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 403, SubChapter N, PT 403 403.12(e) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)(B) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)		
Description:	Failure to control the Senior Flexonics Pathway facility through a permit with applicable pretreatment standards and reporting and notification requirements.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 122, SubChapter D, PT 122, SubPT C 122.41 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iv) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)		
Description:	Failure to receive and analyze self-monitoring reports submitted by industrial users and investigate and enforce instances of non compliance with pretreatment standards and requirements, as indicated in reports or indicated by analysis, and failure to publish significant industrial users in significant noncompliance.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)		
Description:	Failure to evaluate compliance monitoring results from industrial user (IU) discharges in order to identify and enforce occasional and continuing noncompliance with pretreatment standards.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)		
Description:	Failure to take an authorized enforcement action, according to the enforcement response plan of the approved pretreatment program, against the Senior Flexonics Pathway facility for a silver local limit violation identified through self-monitoring.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 315, SubChapter A 315.1 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)		

Description: Failure to evaluate the Senior Flexonics Pathway facility once every two years for the need to develop (or revise) a slug discharge control plan, according to the requirements of the approved pretreatment program.

Date 08/31/2009 (811964) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2010 (833388) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2010 (833389) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2010 (861536) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2010 (927668) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2011 (910017) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2011 (978409) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 11/30/2011 (985220) CN600522957
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NEW BRAUNFELS UTILITIES
RN101700946**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0771-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding New Braunfels Utilities ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 700 feet southwest of the crossing of Gruene Loop Road over the Guadalupe River in Comal County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 8, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Seven Hundred Fifty Dollars (\$7,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Two Hundred Dollars (\$6,200) of the administrative penalty and One Thousand Five Hundred Fifty Dollars

- (\$1,550) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that by December 1, 2011, the Respondent:
 - i. Made adjustments to the chlorine and sulfur dioxide feed rates;
 - ii. Increased the solids removal to waste rate from the aeration process; and
 - iii. Returned to compliance with permitted effluent limits.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System Permit No. WQ0010232002, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 23, 2012 and as shown in the table below:

EFFLUENT PARAMETER		
Permit Limit		
	NH ₃ N Daily Maximum Concentration	Cl ₂ Instant Maximum Concentration
<i>Month/Year</i>	10 mg/L	0.1 mg/L
January 2011	12.25	c
October 2011	c	0.8
November 2011	c	0.3

mg/L = milligrams per liter c = compliant NH₃N = ammonia nitrogen Cl₂ = chlorine

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: New Braunfels Utilities, Docket No. 2012-0771-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

9/5/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

June 21, 2012
Date

PAULA J. DiFONZO
Name (Printed or typed)
Authorized Representative of
New Braunfels Utilities

CEO
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.